

South Texas College

Title IX Procedures

Implementing

Policy #4216: Sex Discrimination, Sexual Harassment, Domestic Violence, Dating Violence, Stalking and Retaliation Prohibited

And

Policy #4205 Equal Education and Employment Opportunities as it applies to Students

Office of Institutional Equity

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Glossary

1. **Actual Knowledge** notice of sexual harassment or misconduct allegations to the College's Title IX Coordinator or any other College official who has authority to institute corrective measures on behalf of the college.
2. **Advisor** a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and, in Title IX Regulatory Grievance cases (Process "A"), to conduct cross-examination for the party at the hearing, if any. In cases involving sexual harassment, sexual assault, dating or domestic violence or stalking, by law, the advisor of choice may be anyone the party chooses to serve in this capacity. In all other cases, the individual must be a current student or employee of the College.
3. **Complainant** the person who experienced behavior alleged to constitute discrimination, discriminatory harassment, sexual harassment, or any other form of misconduct based on a protected class and defined in this policy; or retaliation for engaging in a protected activity.
4. **Confidential Resource** means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
5. **Day** means a business day when the College is in normal operation. In calculating timelines under these Procedures, the day the document is filed is "day zero." The following business day is "day one."
6. **Decision-maker** means the person or panel who hears evidence, determines relevance, and makes the Final Determination of whether this Policy has been violated and/or assigns sanctions.
7. **Directly Related Evidence** is evidence connected to the complaint but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report or Decision-maker. Compare to Relevant Evidence, below.
8. **Education program or activity** means locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the sexual harassment, discrimination, and/or retaliation occurs and also includes any building owned or controlled by a student organization that the College officially recognizes.
9. **Final Determination** is a conclusion by the standard of proof that the alleged conduct did or did not violate policy.
10. **Finding** is a conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a "finding of fact").

11. **Formal Complaint** means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.
12. **Formal Grievance Process** means “Process A,” a method of formal resolution designated by the College to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
13. **Grievance Process Pool** includes any investigators, hearing Decision-makers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
14. **Harassment** for purposes of this policy harassment is defined as: Unwelcome conduct directed toward an individual or group of individuals that is based on that individual’s or group’s membership (or perceived membership) in a particular demographic group, including race, color, religion, age, gender, gender identity, gender expression, national origin or ethnicity, mental or physical disability, or sexual orientation, that is offensive or disrespectful but does not rise to the level of creating a hostile environment.
15. **Hearing Decision-maker or Panel** refers to those who have decision-making and sanctioning authority within the College’s Formal Grievance process.
16. **Hostile Environment** conduct that a reasonable person would consider to be severe, pervasive, and objectively offensive sufficient to limit or deny educational or employment benefits or opportunities. Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets, or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with a person’s residence or on-campus environment, or work or school performance, regardless of medium (e.g., in person, telephone, text message, electronic mail, social media or any other method).
17. **Incest** a type of sexual assault defined as non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Texas law.
18. **Intimate Partner Violence** any intentional act, or threat, of physical, sexual, or psychological violence or abuse, including acts of intimidation and coercion, by a current or former partner in an intimate relationship upon the other partner. Intimate Partner Violence may include a pattern of abusive behavior by one partner to consistently maintain power and control over the other partner. This type of violence can occur regardless of the sex, gender, gender identity, gender expression, or sexual orientation of the other person.

- The existence of an intimate relationship will be evaluated considering the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- Dating and domestic violence are forms of Intimate Partner Violence and all are prohibited by Policy #4216.

- 19. Investigator** means the person or persons charged by the College to gather facts about an alleged violation(s) of Policy #4216 and/or Policy #4205 as it applies to students, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report and file of Directly Related Evidence.
- 20. Mandatory or Mandated Reporter** means an employee of the College who is obligated by Policy #4216 to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- 21. Notice** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- 22. Official with Authority (OWA)** means an employee of the College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the College.
- 23. Parties** include the Complainant(s) and Respondent(s), collectively.
- 24. Preponderance of the Evidence** the standard of evidence applied in determining a violation of Policy #4216 and/or Policy #4205. Generally considered to be “more likely than not” or “the greater weight of the evidence.”
- 25. Process A** means the Formal Grievance Process as set forth in the 2020 Title IX Regulations detailed below and defined above.
- 26. Process B** means the administrative resolution procedures detailed below that apply only when Process A does not, as determined by the Title IX Coordinator.
- 27. The College** means South Texas College, a postsecondary education program that is a recipient of federal funding.
- 28. Relevant Evidence** is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.
- 29. Remedies** are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the College’s educational program.

- 30. Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class¹, or retaliation for engaging in a protected activity².
- 31. Resolution** means the result of an informal or Formal Grievance Process.
- 32. Sanction** means a consequence imposed by the College on a Respondent who is found to have violated policies that are subject to either Process A or B of these Procedures.
- 33. Sexual Harassment** is the umbrella category, including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence. See the Policy on Discriminatory Harassment – B. Sexual Harassment section. for greater detail.
- 34. Supportive Measures** non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College’s education program or activity, including measures designed to protect the safety of all parties or the College’s educational environment, and/or deter harassment, discrimination, and/or retaliation.
- 35. Title IX Coordinator** is at least one official designated by the College to ensure compliance with Title IX and the College’s Title IX program. References to the Title IX Coordinator throughout these procedures may also encompass a designee of the Coordinator for specific tasks.
- 36. Title IX Team** refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

¹ For additional information about protected classes, see, *infra* section “Policy on Nondiscrimination.”

² For additional information about retaliation for engaging in a protected activity, see *infra* section “Retaliation”

Rationale

The College is committed to providing a workplace and educational environment, as well as benefits, programs, and activities, that are free from discrimination and harassment based on a protected category, and retaliation for engaging in a protected activity.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, the College has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation.

The College values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

Applicable Scope

The core purpose of these procedures are to implement Policy #4216 as it applies to all members of the College and Policy #4205 as it applies to students. Collectively, policies #4216 and #4205 prohibit all forms of discrimination, including discrimination based on sex and disability. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, or employment. At other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, it can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence, or domestic violence. When an alleged violation of this nondiscrimination policy is reported, the allegations are subject to resolution using the College's "Process A" or "Process B," as determined by the Title IX Coordinator and as detailed below.

When the Respondent is a member of the College community, a formal complaint may be filed and a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the College community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, vendors, contractors, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with Policies #4216 and #4205 and these Procedures.

The College recognizes that reports and/or Formal Complaints under these procedures may include multiple forms of discrimination and harassment as well as violations of other College policies and procedures; may involve various combinations of students, employees, and other members of the College community; and may require the simultaneous attention of multiple College departments. Accordingly, all College departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable College policies and procedures, to provide uniform, consistent, efficient, and effective responses to alleged discrimination and harassment or retaliation.

Title IX Coordinator

The individual identified in the Title IX Team section, serves as the Title IX Coordinator and 504 Coordinator and oversees the implementation of the College's Title IX and disability compliance and the College's policy on equal opportunity, harassment, and nondiscrimination as it applies to students.

The Title IX Coordinator is primarily responsible for coordinating the College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent discrimination, harassment, and retaliation prohibited under this policy.

All parties will have access to a comprehensive brochure detailing options and resources on the [College's Title IX website](#). The Title IX Coordinator may also go over this information in person with the parties, as appropriate.

Independence and Conflict-of-Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the College President at 956-872-8366 or president@southtexascollege.edu.

Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the College President at 956-872-8366 or president@southtexascollege.edu or designee. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

Title IX Team Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures may be made internally to:

Title IX Coordinator

- **Lauren Starnes**
Title IX Coordinator
Director of Institutional Equity
2501 West Pecan Blvd. A 117
McAllen, TX 78501
(956) 862-2307
TitleIX@southtexascollege.edu
<https://www.southtexascollege.edu/about/notices/title-ix.html>

All members of the Title IX Team can be contacted by emailing TitleIX@southtexascollege.edu.

Title IX Deputy Coordinators

- **Laura Requena**
Director of Human Resources

2501 West Pecan Blvd. A 116
McAllen, TX 78501
956-872-3646
TitleIX@southtexascollege.edu

- **Celinda Salinas**
Director of Career and Employer Services
3201 West Pecan Blvd. U1.402
McAllen, TX 78501
956-872-6319
TitleIX@southtexascollege.edu

Title IX Liaisons

- **Mary G. Elizondo**
Vice President for Finance and Administrative Services
3201 West Pecan Blvd. X 224
McAllen, TX 78501
956-872-3558
TitleIX@southtexascollege.edu
- **Antonio De La Cruz**
Director of Dual Credit Pathways
3201 West Pecan Blvd. A 137
McAllen, TX 78501
(956)872-2148
TitleIX@southtexascollege.edu
- **Santa E. Pena**
Director of Counseling and Student Accessibility Services
3201 West Pecan Blvd. K2.216
McAllen, TX 78501
956-872-2140
TitleIX@southtexascollege.edu
- **Monica M. Perez**
Academic Operations Officer – Academic Affairs
3201 West Pecan Blvd. X 210
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956-872-3522
TitleIX@southtexascollege.edu

The College has also classified all employees as Mandated (“Mandatory”) Reporters of any knowledge they have that a member of the community is experiencing harassment,

discrimination, and/or retaliation. The section below on Mandatory Reporting details which employees have this responsibility and their duties accordingly.

Inquiries may be made externally to:

- **Office for Civil Rights (OCR)**
 - **Texas Office**

U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, TX 75201-6810
Telephone: 214-661-9600
Facsimile: 214-661-9587
TDD#: 800-877-8339
Email: OCR.Dallas@ed.gov
Webpage: <http://www.ed.gov/ocr>
 - **National Office**

U.S. Department of Education
Office of Civil Rights
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012
TDD#: 800-877-8339

For complaints involving employees: Equal Employment Opportunity Commission (EEOC)

- **Texas Office**

Equal Employment Opportunity Commission
Legacy Oaks, Building A
5410 Fredericksburg Road
Suite 200
San Antonio, TX 78229
Telephone: 800-669-4000
Fax: 210-281-7690; TTY: 800-669-6820
- **National Office**

U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

Telephone: 202-663-4900
TTY: 202-663-4494

Notice/Complaints of Discrimination, Harassment, and/or Retaliation

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) File a complaint with, or give verbal or written notice to, the Title IX Coordinator or Deputy Coordinators at the contact information listed in the [Title IX Team Contact Information section](#). Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail, to the office listed for the Title IX Coordinator or any other official listed.
- 2) Report online, using the reporting forms posted at <https://www.southtexascollege.edu/report/index.html>. Anonymous reports are accepted and can lead to an investigation to determine if the parties can be identified, or if there is independent evidence to corroborate the anonymous report. If not, no further formal action is taken, though measures intended to protect the community may be enacted. The College tries to provide supportive measures to all Complainants, which is impossible with an anonymous report that does not identify the Complainant.

Because reporting carries no obligation to initiate a formal response and investigation, and because the College respects Complainant's requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows the College to discuss and/or provide supportive measures.

Formal Complaint

A Formal Complaint means a document submitted or signed by the Complainant and/or signed by the Title IX Coordinator alleging a policy violation by a Respondent and

requesting that the College investigate the allegation(s). A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the [Title IX Team Contact Information section](#), or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the College investigate the allegations.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

Supportive Measures

The College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered without fee or charge to the parties to restore or preserve access to the College’s education program or activity, including measures designed to protect the safety of all parties and/or the College’s educational environment, and/or to deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The College will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the College’s ability to provide those supportive measures. The College will act to ensure as minimal an academic/occupational impact on the parties as possible. The College will implement measures that do not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services

- Referral to the Office of Human Resources
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non-Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to the appropriate student or employee conduct processes for enforcement.

Emergency Removal

The College can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the [Behavioral Intervention Team \(BIT\)](#) using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s) but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be

permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under these Procedures to implement or stay an emergency removal and determine the conditions and duration. Violation of an emergency removal under these procedures will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: restricting a student's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

When the Respondent is an employee, existing provisions outlined in [Policy# 4911](#) for interim action are applicable instead of the emergency removal process.

Promptness

All allegations are acted upon promptly by the College once it has received notice or a formal complaint. Complaints typically take 60-90 business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid undue delays within its control.

Any time the general timeframes for resolution outlined in College procedures will be delayed, the College will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time needed as a result of the delay.

Privacy

The College makes every effort to preserve the privacy of reports. The College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of sex discrimination; any Respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conduct of an investigation, hearing, or grievance proceeding arising under that regulation.

In Texas, Chapter 51, Section 5.256, of the Education Code states that unless waived in writing by the alleged victim, the identity of the alleged victim of an incident is confidential and not subject to disclosure under Chapter 552 of the Government Code and may be disclosed only to (a) persons employed by or under contract with the postsecondary educational institution to which the report is made who are necessary to conduct an investigation of the report or any related hearings; (b) a law enforcement officer as necessary to conduct a criminal investigation of the report; (c) the person or persons alleged to have perpetrated the incident, to the extent required by other law; or (d) potential witnesses to the incident as necessary to conduct an investigation of the report.

The College reserves the right to determine which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: the Office of Institutional Equity, Academic Affairs, the Office of Student Rights and Responsibility, Accountability, Risk, and Compliance, Department of Public Safety, and the Behavioral Intervention Team. Information will be shared as necessary with Investigators, Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The College may contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically below.

Jurisdiction of the College

These procedures apply to the educational program and activities of the College, to conduct that takes place on the campus or on property owned or controlled by the College, at College-sponsored events, and in buildings owned or controlled by College's recognized student organizations. The Respondent must be a member of the College's community and someone over whom the College has authority to take disciplinary action in order for these Procedures and their corresponding Policies to apply.

These Procedures and their corresponding Policies can also be applicable to the effects of off-campus misconduct that effectively deprives someone of access to the College's educational program. The College may also extend jurisdiction to off-campus and/or online conduct when the Title IX Coordinator determines that the conduct affects a substantial College interest.

Regardless of where the conduct occurred, the College will address all notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on-campus or in an off-campus sponsored program or activity. A substantial College interest includes:

- a. Any action that constitutes a criminal offense as defined by federal and/or Texas law and affects a right or interest of the College. This includes, but is not limited to, single or repeat violations that compromise the health and safety of the College community or is directed to a member of the College community
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or another individual;
- c. Any situation that significantly impinges upon the rights of others or significantly breaches the peace, and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the College.

If the Respondent is unknown, or is not a member of the College's community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options. If criminal conduct is alleged, the College can assist the Complainant in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the College's community, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator.

In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from College property and/or events.

All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers and/or to the policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint. Typically, the procedures and policies in this document only apply to incidents that occurred after August 14, 2020. For incidents that occurred prior to August 14, 2020, previous policies and current procedures will apply. Those versions are available from the Title IX Coordinator.

Online Harassment and Misconduct

The policies of the College are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the College's educational program and activities, or when they involve the use of College networks, technology, or equipment.

Although the College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the College community.

However, any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring entirely outside of the College's control (e.g., not on College networks, websites, or between College email accounts) will only be subject to these Procedures and the corresponding Policies when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

Off-campus harassing speech by employees, whether online or in-person, may be regulated by the College only when such speech is made in an employee's official or work-related capacity.

Policy on Nondiscrimination

The College adheres to all federal, state, and local civil rights laws and regulations prohibiting discrimination in public institutions of higher education.

The College does not discriminate against any employee, an applicant for employment, student, or applicant for admission on the basis of:

- Race,
- Religion,
- Hearing status,
- Color,
- Sex,
- Pregnancy,
- Ethnicity,
- National origin (including ancestry),
- Physical or mental disability (including perceived disability),
- Age,
- Sexual orientation,
- Gender identity,
- Gender expression,
- Veteran or military status (including disabled veteran, recently separated veteran, active duty wartime or campaign badge veteran, and Armed Forces Service Medal veteran),
- Predisposing genetic characteristics,
- or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus with the Equal Employment Opportunity Commission or another human/civil rights agency.

These procedures cover nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the College community whose acts deny, deprive, or limit the educational or employment [or residential and/or social] access, benefits, and/or opportunities of any member of the College community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above violates the College's policy on nondiscrimination.

When brought to the attention of the College, any such discrimination will be promptly and fairly addressed and remedied by the College according to the appropriate grievance process described below.

Disability Discrimination and Accommodation

The College is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal, state and local laws and regulations pertaining to individuals with disabilities. See [Policy #4205](#), the [College's Section 504/ADA Accommodation Appeal Grievance Procedure](#), and [Process B](#) for further information.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the College, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The Title IX Coordinator has also been designated as the College's ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

Grievances related to disability status and/or accommodations will be addressed using the College's [Section 504/ADA Accommodation Appeal Grievance Procedure](#). For details relating to disability accommodations in the College's resolution process, consult the Frequently Asked Questions (FAQ's) on the College's [Title IX Website](#). Individuals who would like to discuss the administration of accommodations in the College's Grievance Procedures are also encouraged to contact the Title IX Coordinator.

Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. This policy is not

meant to inhibit or prohibit educational content or discussions inside or outside the classroom, including germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under College policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of College policy, though supportive measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.

Discriminatory Harassment

Discriminatory harassment constitutes a form of discrimination that is prohibited by College policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

The College does not tolerate discriminatory harassment of any employee, student, visitor, or third-party. The College will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a “hostile environment.”

A hostile environment is one that is sufficiently severe, pervasive and objectively offensive such that it unreasonably interferes with, limits, or effectively denies an individual’s educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, and/or physical conduct.

When discriminatory harassment rises to the level of creating a hostile environment, the College may impose sanctions on the Respondent by applying the appropriate grievance process detailed below.

The College reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is generic and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under College policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other informal resolution mechanisms.

For assistance with Alternative Resolution and other informal resolution techniques and approaches, employees should contact the Director of Human Resources, and

students should contact either the Title IX Coordinator or the Office of Student Rights and Responsibilities.

Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Texas regard sexual harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice. The College has adopted the following definition of sexual harassment in order to address the unique environment of an academic community.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity/expression of those involved.

Sexual harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking defined as:

Conduct on the basis of sex or that is sexual in nature that satisfies one or more of the following:

- 1) **Quid Pro Quo:**
 - a. an employee of the College,
 - b. conditions the provision of aid, benefit, or service of the recipient,
 - c. on an individual's participation in unwelcome sexual conduct.
- 2) **Sexual Harassment:**
 - a. unwelcome conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, and
 - d. pervasive, and,
 - e. objectively offensive,
 - f. that it effectively denies a person equal access to the College's education program or activity.
- 3) **Sexual assault**, defined as:

- a. **Any sexual act**³ directed against a Complainant⁴,,
 - Without their consent, or,
 - Instances in which the Complainant is incapable of giving consent.⁵
- b. **Incest:**
 - Non-forcible sexual intercourse,
 - between persons who are related to each other,
 - within the degrees wherein marriage is prohibited by Texas law.
- c. **Statutory Rape:**
 - Non-forcible sexual intercourse,
 - With a person who is under the statutory age of consent of 17.

4) **Dating Violence**, defined as:

- a. violence,
- b. on the basis of sex,

³ A “sexual act” is specifically defined by federal regulations to include one or of the following:

Rape:

- The carnal knowledge of a Complainant or Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person,
- Without their consent,
- Including circumstances where they are incapable of giving consent because of age or because of a temporary or permanent mental or physical incapacity.

Sodomy:

- Oral or anal sexual intercourse with a Complainant,
- Forcible, and/or
- Against their will (non-consensually), or
- Not forcibly or against their will instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- However slightly,
- The genital or anal opening of the body of the Complainant,
- Forcibly, and/or
- Against their will (non-consensually), or
- Not forcibly or against their will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Fondling:

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- For the purpose of sexual gratification,
- Forcibly, and/or
- Against their will (non-consensually), or
- Not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

⁴ This would include having another person touch you sexually, forcibly, and/or without their consent.

⁵ In circumstances of incapacity the standard for finding an individual responsible requires a knew or should have known application.

- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - I. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - II. Dating violence includes, but is not limited to sexual or physical abuse or the threat of such abuse.
 - III. Dating violence does not include acts covered under the definition of domestic violence.

5) **Domestic Violence**⁶ ("Family Violence" under Texas law), defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Texas, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Texas.

6) **Stalking**, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or

⁶ To categorize an incident as Domestic Violence under Policy #4216 and these Procedures, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have intimate relationship.

iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

The College prohibits employees from entering consensual romantic or sexual relationships with each other if one is the direct or indirect supervisor of the other. The College prohibits faculty members and students from entering consensual romantic or sexual relationships with each other if one is the instructor of the other.

Employees in a supervisory subordinate relationship are prohibited from explicitly or implicitly suggesting or recommending, or agreeing that either employee transfer or be transferred to another position or leave employment with the intention of circumventing Policy# 4216, Policy #4901, and these procedures.

Individuals in an instructor-student relationship are prohibited from explicitly or implicitly suggesting or recommending, or agreeing that the student enrolled in the faculty member's class drop or withdraw from enrollment in the class or the College or that the faculty member withdraw from the class or from employment with the College to circumvent [Policy# 4216](#), [Policy #4901](#), these procedures, or any other applicable policies and procedures.

The prohibition on consensual relationships applies for the duration of the supervisor-subordinate or instructor-student relationship and for the period of one calendar year after such relationship has ended.

The College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under Policy 4216, Policy #4901, or these Procedures as described herein.

Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX, the College additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant's actual or perceived membership in a protected class.

- Sexual Exploitation is defined as an individual taking non-consensual or abusive sexual advantage of another for their own benefit or the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
 - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
 - Invasion of sexual privacy
 - Taking pictures, video, or audio recording of another in a sexual act, or in any other
 - sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography
 - Prostituting another person
 - Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
 - Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
 - Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections

- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Creation, possession, or dissemination of child pornography;
- Threatening or causing physical harm; extreme verbal, emotional, or psychological abuse; or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);
- Bullying, defined as:
 - Repeated and/or severe
 - Aggressive behavior
 - Likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally
 - That is not speech or conduct otherwise protected by the First Amendment.

Violation of any other College policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from reprimand to expulsion/termination.

Standards for Analysis

As used in the offenses above, the following definitions and understandings apply:

Force: is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily defined by the degree of force. While resistance is not required or necessary, it is a clear demonstration of non-consent. Consent is not demonstrated by the absence of resistance. Silence or the absence of resistance alone does not necessarily constitute consent.

Coercion: Coercion is an unreasonable amount of pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to automatically constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar and previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so the College's evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to the policy that assumes non-kink relationships as a default.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who they know or reasonably should have known is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

Retaliation

Protected activity under this policy includes reporting an incident that may implicate these Procedures and their corresponding Policies, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this policy.

The College and any member of the College's community are prohibited from taking or attempting to take a materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in, in any manner, an investigation, proceeding, or hearing under this policy and procedure.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Mandated Reporting

All College employees (faculty, staff, administrators) are required to report actual or suspected discrimination, harassment, and/or retaliation to appropriate officials immediately, although there are some limited exceptions.

All employees of the College, including student employees when they are acting in the course and scope of their employment, with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Failure of a Mandated Reporter, to report an incident of harassment or discrimination of which they become aware is a violation of College policy and Texas law and can be subject to disciplinary action, up to and including termination, as well as civil and criminal penalties, for failure to comply.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though the College is technically not on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or seek a specific response from the College. Supportive measures may be offered as the result of such disclosures without further formal action by the College.

Reporting to any Mandated Reporter can connect a Complainant with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at the College for a Complainant or third-party (including parents/guardians when appropriate):

On-campus, some individuals may maintain confidentiality and are not required to report actual or suspected discrimination or harassment in a manner that identifies the parties. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors⁷
- Ombuds person
- Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, professional credentials, or official designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order. The contact information for these resources, as well as specific names of the off-campus resources, can be found on the College's [Title IX Website](#).

⁷ No other staff members from the Counseling and Student Accessibility Services (CSAS) Office are designated as confidential resources. Such CSAS staff members who are explicitly not designated as confidential resources, include, but are not limited to, department secretary, student success specialists, and sign language interpreters.

Campus counselors are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Employees who have confidential privileges as described above, and who receive reports within the scope of their confidential roles, will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

b. Anonymous Reports

An anonymous notice will be investigated by the College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures can be provided.

However, anonymous notice typically limits the College's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process, usually upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to physical health and/or safety that requires the College to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The College may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the College proceeds, the Complainant (and/or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options (see below) and supportive measures to the Complainant and the community but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the College and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence or present issues with respect to the status of the parties.

Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the College must issue timely warnings for

incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under College policy.

Amnesty for Complainants and Witnesses

The College community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the College community that Complainants choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

Process A: Title IX Regulatory Resolution Process

Overview

The College will act on any formal or informal notice/complaint of a violation of sexual harassment as defined by the 2020 Title IX regulations received by the Title IX Coordinator or any other Official with Authority by applying these procedures, known as “Process A.”

The procedures below apply only to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrators, or faculty members.

If other policies are invoked, such as policies on protected class harassment or discrimination above, please see the section on Process B for a description of the procedures applicable to the resolution of such offenses, known as “Process B.”

Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

Unionized/other categorized employees are subject to the terms of their agreements/employees’ rights to the extent those agreements do not conflict with federal or state compliance obligations.

The procedures below may be used to address collateral misconduct (e.g., vandalism, physical abuse of another). arising from the investigation of or occurring in conjunction with reported misconduct that is subject to this policy (All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through procedures described in the student, faculty, and staff handbooks.

Notice/Complaint

Upon receipt of a formal complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps the College needs to take.

The Title IX Coordinator will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
- 2) An informal resolution (upon submission of a formal complaint); and/or
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

The College uses the Formal Grievance Process to determine whether or not the policy has been violated. If so, the College will promptly implement effective supportive measures designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this policy, the Title IX Coordinator engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:

- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assess their request(s), and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint themselves because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.

- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- If Complainant wishes an informal resolution, they are made aware that they must first file a Formal Complaint. If the informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution and will seek to determine if the Respondent is also willing to engage in informal resolution.
- If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX regulatory standards:
- If it does, the Title IX Coordinator will initiate the formal investigation and grievance process. If alleged misconduct does not fall within the scope of the Title IX regulatory standards, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, which resolution process is applicable, and will refer the matter accordingly, including referring the matter for resolution under Process B if applicable. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX regulations which does not limit the College’s authority to address a complaint with an appropriate process and remedies.

a. Violence Risk Assessment

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Behavior Intervention Team (BIT) as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to an individual or the community’s physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and, if so, what approach may be most successful;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

A VRA authorized by the Title IX Coordinator should occur in collaboration with the BIT/CARE or threat assessment team. When a VRA is required by the Title IX Coordinator, a Respondent's refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

More about the College's process for VRA can be found below [here](#) on the College's website.

b. Dismissal (Mandatory and Discretionary)

The College must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by recognized student organizations), and/or the College does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the College.

The College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the College; or
- 3) Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

Please note that dismissing a formal complaint or report under this policy is solely a procedural requirement under the law and does not limit the College's authority to address a complaint or report with the appropriate process and remedies, including but limited to through Process B as described later in these Procedures..

Counterclaims

The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith but are, on occasion, made for purposes of retaliation instead. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may occur after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

Right to an Advisor

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

Choosing an Advisor who is also a witness in the process creates a potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

The College may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with College policies.

Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose as part of an Informal Resolution, discussed below. The College encourages parties to discuss any sharing of information with their Advisors before doing so.

The Formal Grievance Process is the College's primary resolution approach, unless Informal Resolution is elected by all parties and the College. Three options for Informal Resolution are detailed in this section, and the Formal Grievance Process is detailed in the next section.

A. Informal Resolution

- a. Supportive Resolution. When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- b. Alternative Resolution. When the parties agree to resolve the matter through an alternative resolution mechanism.
- c. Accepted Responsibility. When the Respondent accepts responsibility for violating policy and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation), see discussion in section C. below.

To initiate Informal Resolution, a Complainant must submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, the College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the College.

The College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution. If Informal Resolution is unsuccessful and the matter moves to the Formal Grievance Process, neither the fact that Informal Resolution was attempted nor any statements made during the Informal Resolution will be disclosed to the decision-maker(s).

B. Alternative Resolution Mechanism

Alternative Resolution is an informal mechanism by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent to the use of an Alternative Resolution approach.

The Title IX Coordinator may consider the following factors to assess whether an Alternative Resolution is appropriate:

- The parties' amenability to Alternative Resolution;
- Likelihood of potential resolution, considering any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis (if appropriate)
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternative Resolution facilitator with this type of allegation;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternative Resolution (time, staff, etc.)

The ultimate determination of whether an Alternative Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator is authorized to negotiate a resolution that is acceptable to all parties and/or to

accept a resolution that is proposed by the parties, usually through their Advisors.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternative Resolution are not appealable.

C. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether the Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the College are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of College policy and implements agreed-upon remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

Formal Grievance Process

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of these procedures to all students, parents/guardians of students, employees, prospective students, and prospective employees.

The list of Pool members and a description of the Pool can be found on the College’s [Title IX Website](#).

Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (NOIA) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official College records, or emailed to the parties' College-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Resolution Timeline

The College will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal if any, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator will appoint an investigator or investigators to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

Ensuring Impartiality

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) for impartiality by ensuring no actual or apparent conflicts of interest or disqualifying biases. The

parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the College President.

The College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

Investigation Timeline

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

Delays in the Investigation Process and Interactions with Law Enforcement

If circumstances require it, the College may undertake a short delay in its investigation (several days to a few weeks). Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The College will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

College action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. Recordings of interviews are not provided to the parties, but the parties will have the ability to review the transcript/summary of the interview once the investigation report is compiled.

Investigative Actions

- Upon conclusion of the investigation, the investigator will write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included.
- The Investigator(s) gather and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The

parties are also provided with a file of any directly related evidence that was not included in the report.

Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of the College are strongly encouraged to cooperate with and participate in the College's investigation and resolution process. Witnesses outside the College's community are encouraged to cooperate with the College's investigations and share what they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely if the Investigator(s) determine that timeliness, efficiency, or other reasons dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties should be made aware of audio and/or video recording. Texas has a "one-party consent" law that requires that only one party to the conversation has to consent to audio and/or video recording.

Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, the Title IX Coordinator will refer the matter for a hearing once the final investigation report is shared with the parties.

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation—when the final investigation report is transmitted to the parties and the Decision-maker—unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Decision-maker or Decision-makers.

Hearing Decision-maker Composition

The College will designate a single Decision-maker or a three-member panel, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator.

The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and, therefore, may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time and venue determined by the Chair or designee.

Evidentiary Considerations in the Hearing

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, as the College uses a progressive discipline system. However, this information is only considered at the sanction stage of the process and is not shared until then.

After post-hearing deliberation, the Decision-maker(s) render(s) a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Notice will be presumed delivered once mailed, emailed, and/or received in-person.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- Description of any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request

must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.

- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker(s) on the basis of demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the College will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker(s) will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing at least five (5) business days prior to the hearing.
- Whether parties can/cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College and remain within the 60-90 business day goal for resolution.

Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may

also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

Hearing Procedures

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within policy #4216.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is a Respondent), Advisors to the parties, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations, interpretation, and/or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties, and the witnesses will then be excused.

Detailed information about the hearing process can be found here on the College's Title IX website, including:

- Pre-hearing Preparation
- Pre-hearing meeting
- Order of the hearing
- Investigator's presentation of the final investigation report
- Testimony and questioning
- Participation in cross-examination and inferences
- Deliberation, decision-making, and standard of proof
- Notice of outcome

Detailed information about the hearing can be found here on the [College's Title IX website](#). Each party and their respective advisor(s) will all also receive a Process A Hearing Guide containing the same detailed information about the hearing process when/if the Complaint goes to a formal hearing.

Joint Hearings

In hearings involving more than one Respondent, or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

Recording Hearings

Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings, and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the College will be permitted to listen to the recording or review a transcript of the recording in a controlled environment determined by the Title IX Coordinator, upon request. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a grievance process at any time, and(or) referring that information to another process for resolution.

A. Student Sanctions

Sanctions relating to students will typically be administered by the Office of Student Rights and Responsibilities and in consultation with the Title IX Coordinator. The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:⁸

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Community Service*: A specific number of hours of community service be served per terms of the sanction.
- *Loss of Privileges*: A denial of specified privileges for a designated period of time.
- *Campus or Academic Reassignment*: Reassignment to another South Texas College campus or academic setting.
- *Required Mental Health Assessment and/or Treatment*: A requirement for either remaining enrolled at the College or returning once a sanction is completed, the College may require an assessment for risk or that the

⁸ College policies are transcript notation will apply to these proceedings.

student attend College-sponsored or external counseling to better comprehend the misconduct and its effects.

- *Suspension*: Separation from the College for a specific period of time, not to exceed two years and/or until specific criteria are met. The individual is required to vacate the campus immediately, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested. However, the deadline may be extended upon application to and the discretion of the Title IX Coordinator. During the suspension period, the individual is banned from College property, functions, events, and sponsored activities. This sanction may be enforced with a trespass action if necessary. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the College.
- *Expulsion*: The removal and permanent separation from the College. The individual is banned from College property and their presence at any College-sponsored activity or event is prohibited. This sanction may be enforced with a trespass action if necessary. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript subject to any applicable expungement policies.
- *Eligibility Restriction*: Restriction from use of or denial of specified College services, including participation in College activities. The student is deemed "not in good standing" with the College for a specified period of time. Specific limitations or exceptions may be implemented by the Title IX Coordinator and may include, but are not limited to:
 - Ineligibility to hold any office in any student organization recognized by the College or hold an elected or appointed office at the College; or
 - Ineligibility to represent the College to anyone outside the College community, including participating in a study abroad program, attending conferences, or representing the College at any official function, event, or intercollegiate competition as a player, manager or coach, etc.
- *Delayed Conferral of Degree*: The College may delay issuance of a student's degree for a specified period of time or until the student meets certain conditions.
- *Revocation of Degree*: The College reserves the right to revoke a degree previously awarded from the College for fraud, misrepresentation, and/or other violation of College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

- **Withholding of Official Transcript, Degree, or Certificate:** The College may withhold the official transcript, degree, or certificate of completion; or deny, not recognize, or revoke a degree.
- **Non-Academic Transcript Notation:** In accordance with Texas state law, House Bill 449, postsecondary educational institutions are **required** to include on the student's transcript, official or unofficial, a disciplinary notation if the student has been suspended or expelled.
- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

B. Employee Sanctions/Responsive/Corrective Actions

Sanctions relating to employees will typically be administered by the Office of Human Resources in consultation with the Title IX Coordinator. Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include the below and are not required to be progressive. See College [policy #4911](#) for the complete definition of the below:

- *Verbal Warning*
- *Written Reprimand*
- *Conduct and Performance Improvement Plan*
- *Suspension Without Pay*
- *Suspension With Pay*
- *Termination*
- *Enhanced supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- **Other Actions:** In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive actions as deemed appropriate.

Withdrawal or Resignation Before Complaint Resolution

A. Students

Should a Respondent decide not to participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a

student Respondent permanently withdraw from the College, the resolution process typically ends with a dismissal, as the College has lost primary disciplinary jurisdiction over the withdrawn student. However, the College may continue the resolution process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and(or) remedy any ongoing effects of the alleged harassment, discrimination, and(or) retaliation.

Regardless of whether the complaint is dismissed or pursued to completion of the resolution process, the College will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and(or) retaliation.

If the student Respondent only withdraws or takes a leave of absence for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and, if found in violation, that student is not permitted to return to the College unless and until all sanction, if any, have been satisfied.

B. Employees

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends with dismissal, as the College has lost primary disciplinary jurisdiction over the resigned employee. However, the College may continue the resolution process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and(or) remedy any ongoing effects of the alleged harassment, discrimination, and(or) retaliation.

Regardless of whether the matter is dismissed or pursued to completion of the resolution process, the College will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s) and any ongoing effects of the alleged harassment, discrimination, and(or) retaliation.

The employee who resigns with unresolved allegations pending is not eligible for academic admission or rehire with the College or any College location, and the records retained by the Title IX Coordinator will reflect that status.

All College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

Appeals

Any party may submit a request for an appeal (“Request for Appeal”) to the Title IX Coordinator within 10 business days of the delivery of the Notice of Outcome.

The Title IX Coordinator will designate a three-member appeal panel. No Appeal Decision-maker(s) will have been previously involved in the resolution process for the complaint, including in any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Panel or designee for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Additional information about the Appeal Process can be found [here](#) on the College’s Title IX website.

A. Grounds for Appeal

Appeals are limited to the following grounds:

- a) Procedural irregularity that affected the outcome of the matter;
- b) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- c) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this policy, that request will be denied by the Appeal Panel, and the parties and their Advisors will be notified in writing of the denial and the rationale.

A Notice of Appeal Outcome will be sent to all parties simultaneously, including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result, which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings, to the extent the College is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' College-issued email address or otherwise approved account. Notice will be presumptively delivered once mailed, emailed, and/or received in-person.

B. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed (not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then the emergency removal procedures, as explained in a previous section for a show cause meeting on the justification for doing so, must be permitted within 48 hours of implementation.

Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Education to the individual and/or the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the College to the Respondent to ensure no effective denial of educational access.

The College will maintain the privacy of any long-term remedies/actions/measures, provided that privacy does not impair the College's ability to provide these services.

Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Panel).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

Recordkeeping

The College will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The College will make these training materials publicly available on the College's website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:

- a. The basis for all conclusions that the response was not deliberately indifferent;
- b. Any measures designed to restore or preserve equal access to the College's education program or activity; and
- c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The College will also maintain any and all records in accordance with state and federal laws. Refer to Policy #2510, the [Student Handbook](#) (for student related records), and the [Employee Handbook](#) (for employee related records) for more information regarding the College's records retention policies and procedure for requesting records.

Process B

If Process A is applicable, Process A must be applied in lieu of Process B.

Process B is applicable when the Title IX Coordinator determines Process A is inapplicable or offenses subject to Process A have been dismissed.

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF POLICY #4216 THAT DOES NOT CONSTITUTE SEXUAL HARASSMENT UNDER TITLE IX REGULATORY SECTION 106.30, AND ALLEGED VIOLATIONS OF POLICY #4205 AS IT APPLIES TO STUDENTS

The College will act on any formal or informal allegation or notice of violation(s) of Policy [#4216](#) and(or) [Policy #4205](#) as it applies to students that is received by the Title IX Coordinator or a member of the administration, faculty, or another employee, with the exception of confidential resources, as articulated in these procedures and the aforementioned policies.

When Process B Applies

The procedures described below apply to all allegations of harassment, discrimination, and/or retaliation on the basis of sex that involves students, staff, faculty, or third parties, that are not subject to Process "A,"

The procedures described below also apply to all allegations of harassment, discrimination, and/or retaliation on the basis of any other protected characteristic status involving students.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing, discriminatory, or retaliatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

Initial Assessment

Following intake, receipt of notice, or a complaint of an alleged violation of [Policy #4216](#) and [Policy #4205](#) as it applies to the student, the Title IX Coordinator engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they have an Advisor.
- The Title IX Coordinator works with the Complainant to determine which of three options to pursue: A Supportive Response, an Informal Resolution, or an Administrative Resolution.
 - **Supportive Response:** measures to help restore the Complainant's education access
 - a. If a Supportive Response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. An Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
 - **Informal Resolution:** typically used for less serious offenses and only when all parties agree to Informal Resolution or when the Respondent is willing to accept responsibility for violating policy
 - a. If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the Respondent is also willing to engage in Informal Resolution.

- **Administrative Resolution:** Investigation of a policy violation(s) and recommended finding(s), subject to a determination by the Title IX Coordinator or Decision-maker(s) and the opportunity to appeal
 - a. If Administrative Resolution is preferred, the Title IX Coordinator initiates the investigation process.

The investigation and the subsequent Administrative Resolution determine whether [Policy #4216](#) or [Policy #4205](#) as it applies to students has been violated. If so, the College will promptly implement effective remedies designed to end the discrimination, prevent a recurrence, and address the effects.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator. At any point during the initial assessment or formal investigation, if the Title IX Coordinator determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the Title IX Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

Counterclaims

Counterclaims by the Respondent may be made in good faith but are also sometimes made for purposes of retaliation. The College is obligated to ensure that any process is not abused for retaliatory purposes.

The College permits the filing of counterclaims but uses the [initial assessment](#) described above in the Policy section to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after the resolution of the underlying allegation.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this Policy.

Advisors

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose.

The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

Choosing an Advisor who is also a witness in the process creates a potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

The College may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

Resolution Options

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with College Policy.

While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose but are encouraged to discuss with their Advisors first before doing so.

A. Informal Resolution

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through Alternate Resolution (mediation, restorative practices, facilitated dialogue, etc.), when the Respondent accepts responsibility for violating Policy, or when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal Resolution fails after the resolution is finalized, an Administrative Resolution may be pursued.

i. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent accepts responsibility, the Title IX Coordinator makes a determination that the individual is in violation of College Policy.

The Title IX Coordinator then determines appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and the Title IX Coordinator or designee has determined appropriate sanction(s) or responsive actions, which are promptly implemented, the process is over. The Complainant will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator has determined appropriate sanction(s) or responsive actions, which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved. The Complainant will be informed of this outcome. The parties are still able to seek an Alternate Resolution on the remaining allegations, subject to the stipulations above.

B. Administrative Resolution

Administrative Resolution can be pursued for any behavior for which the Respondent has not accepted responsibility that constitutes conduct covered by [Policy #4216](#) and [Policy #4205](#) as it applies to students at any time during the process. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Title IX Coordinator will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given at least 48 hours in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, will be made in writing, and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' designated email account.

Notice will be presumed delivered once mailed, emailed, and/or received in-person. The notification should include the policies allegedly violated if known at

the time. Alternatively, the allegedly violated policies can be provided later, in writing, as the investigation progresses, and details become clearer.

The College aims to complete all investigations within a sixty (60) business day period, which can be extended as necessary for appropriate cause by the Title IX Coordinator, with notice to the parties as appropriate.

Once the decision is made to commence an investigation, the Title IX Coordinator appoints an investigator(s) to conduct the investigation. Detailed information regarding the Investigation Process can be found [here](#) on the College's Title IX website.

The investigator(s) gather and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of the report.

The investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any relevant evidence, make necessary revisions, and finalize the report.

Determination

Within two to three (2-3) business days of receiving the Investigator's report, the Title IX Coordinator or a trained, designated Decision-maker from the Pool⁹ reviews the report and all responses and then makes the final determination on the basis of the preponderance of the evidence.

If the record is incomplete, the Title IX Coordinator/Decision-maker may direct a re-opening of the investigation or may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The Title IX Coordinator or Decision-maker may invite and consider impact and/or mitigation statements from the parties if and when determining appropriate sanction(s), if any.

⁹ In those cases where the Title IX Coordinator is the investigator or has been heavily involved in the process prior to determination, a Decision-maker from the Pool shall be designated to ensure there is no conflict of interest.

Additional Details of the Investigation Process

A. Witness responsibilities

Witnesses (as distinguished from the parties) who are faculty or staff of the College are expected to cooperate with and participate in the College's investigation and resolution process. Failure of a witness to cooperate with and/or participate in the investigation or resolution process constitutes a violation of Policy and may be subject to discipline.

B. Remote processes

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) and/or Decision-maker determine that timeliness, efficiency, or other causes dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator(s), though this approach is not ideal. When remote technologies are used, the College makes reasonable efforts to ensure privacy and ensures that any technology does not work to the detriment of any party or subject them to unfairness.

C. Recording

No unauthorized audio or video recording of any kind is permitted during the resolution process, including investigative interviews. If Investigator(s) elect to audio and/or video record interviews, all involved parties should be made aware of the audio and/or video recording. Texas has a "one-party consent" law that requires that only one party to the conversation consents to the recording.

D. Evidence

Any relevant and credible evidence may be considered as well as evidence indicating a pattern of misconduct, subject to the limitation in (E) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

E. Prior Sexual History/patterns

Unless the Title IX Coordinator /Decision-maker determines it is appropriate, the investigation and the findings do not consider: (1) incidents not directly related to possible violation(s) unless they evidence a pattern; (2) the irrelevant sexual

history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); and (3) irrelevant character evidence.

F. Previous allegations/violations

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation(s), the Investigator(s) may supply the Title IX Coordinator/Decision-maker with information about previous good faith allegations and/or findings when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s) because the College has the option to use a progressive discipline system.

G. Character witnesses

Character witnesses or evidence may be offered. The investigation and hearing will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.

H. Notification of outcome

If the Respondent admits to the violation(s), or is found in violation, the Title IX Coordinator in consultation with other administrators as appropriate, determines sanction(s) and/or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The Title IX Coordinator informs the parties of the determination within two to three (2-3) business days of the resolution, ideally simultaneously, but without significant time delay between notifications. Notifications are made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College-issued or designated email account. Notice is presumed delivered once mailed, emailed, and/or received in-person.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s) that may result which the College is permitted to share pursuant

to state or federal law, and the rationale supporting the findings to the extent the College is permitted to share under state or federal law.

The notice will detail when the determination is considered final (see [Appeals](#) section infra) and will detail any changes made prior to finalization.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found below.

Sanctions

A list of factors considered when determining any sanction(s)/responsive action(s), as well as a list of usual sanctions that may be imposed relating to students and employees respectively, can be found in [Process A: Title IX Regulatory Resolution Process](#) section.

Withdrawal or Resignation While Charges are Pending

Students: The College permits a student to withdraw with permission if that student has an allegation pending for violation of [Policy#4216](#) or [Policy #4205](#) as it applies to students. The College may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the resolution process to be completed.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any College responses to future inquiries regarding employment references for that individual will include the former employee's unresolved status and whether the employee is eligible for rehire.

Appeals

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within seven (7) business days of the delivery of the written finding of the Title IX Coordinator or Decision-maker. Any party may appeal the findings only under the grounds described below.

The Title IX Coordinator will designate an Appeal Decision-maker chosen from the Pool from those who have not been involved in the process previously. Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures, failure to correctly apply the evidentiary standard).
- To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal.
- The sanctions imposed fall outside the range of sanctions the College has designated for this offense and the cumulative record of the Respondent.

Detailed information regarding the Appeal Process can be found [here](#) on the College's Title IX website.

All parties will be informed in writing within five (5) business days of the outcome of the appeal without significant time delay between notifications and in accordance with the standards for Notice of Outcome as defined above.

When appeals result in no change to the finding or sanction, that decision is final.

When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.

In rare cases when a procedural or substantive error cannot be cured by the original Investigator(s) and/or Title IX Coordinator/Decision-maker (as in cases of bias), the Appeal Decision-Maker may recommend a new investigation and/or Administrative Resolution process, including a new Decision-maker.

The results of a new Administrative Resolution process can be appealed once, on any of the three applicable grounds for appeals.

In cases in which the appeal results in Respondent's reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable.

Long-Term Remedies/Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement long-term remedies or actions

with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedial requirements owed by the College to the Respondent.

Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Title IX Coordinator.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s) and responsive/corrective action(s), including suspension, expulsion, and/or termination from the College and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

Recordkeeping

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept as required by state or federal law or institutional policy, by the Title IX Coordinator in the Title IX case database.

The College will also maintain any and all records in accordance with state and federal laws. Refer to Policy #2510, the [Student Handbook](#) (for student related records), and the [Employee Handbook](#) (for employee related records) for more information regarding the College's records retention policies and procedure for requesting records.

Disabilities Accommodation in the Resolution Process

The College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's Resolution Process. Anyone needing such accommodations or support should contact the Director of Counseling and Student Accessibility Services or the Director of Human Resources, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

Revision

The policies and procedures posted on the South Texas College website represent the most up-to-date policies. These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

The Title IX Coordinator may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The Title IX Coordinator may also vary procedures materially with notice (on the College website, with the appropriate, effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

The Procedures in effect at the time of the resolution will apply to the resolution of incidents, regardless of when the incident occurred.

The Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution unless the parties consent to be bound by the current policy.

If government regulations change in a way that impacts this document, this document will be construed to comply with the most recent government regulations.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws that generally frame such policies and codes.

These Procedures were implemented on July 12, 2022.